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National institutions for the promotion and protection of human rights

Report of the Secretary-General

I. Introduction

1. The present report has been prepared pursuant to paragraph 11 of resolution 50/176 of 22 December 1995, entitled "National institutions for the promotion and protection of human rights", in which the General Assembly requested the Secretary-General to report to it at its fifty-second session on the implementation of the resolution.

2. In the same resolution, the General Assembly reaffirmed the importance of the development of effective, independent and pluralistic national institutions for the promotion and protection of human rights in keeping with the Vienna Declaration and Programme of Action and, *inter alia*, the principles relating to the status of national institutions, and encouraged Member States to establish or to strengthen national institutions and to incorporate those elements in national development plans.

3. The General Assembly requested the Secretary-General to give high priority to requests from Member States for assistance in the establishment and strengthening of national institutions as part of the programme of advisory services and technical assistance; noted the role of the coordinating committee created by national institutions to assist Governments and institutions to strengthen national institutions; also noted the importance of finding an appropriate form of participation by national institutions in relevant United Nations meetings dealing with human rights; and encouraged Member States to take appropriate steps to promote the exchange of information and experience concerning the establishment and effective operation of such national institutions.

4. Pursuant to General Assembly resolution 50/176, the present report contains information on the various activities undertaken by the Office of the United Nations High Commissioner for Human Rights to establish and strengthen national institutions and on the measures taken by Governments and national institutions themselves in these areas.

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II. Activities of the Office of the United Nations High Commissioner for Human Rights with a view to the establishment and strengthening of national institutions

A. Measures taken by Governments to promote national institutions and the programme of advisory services and technical assistance for national institutions

5. The World Conference on Human Rights, the General Assembly and the Commission on Human Rights (most recently in its resolution 1997/40) have all called upon the Office of the United Nations High Commissioner for Human Rights to provide assistance for the establishment and/or strengthening of national human rights institutions. Such assistance, pursuant to requests by Governments, is now a major component of the Office of the High Commissioner's technical cooperation programme and is generally funded by contributions (often specifically earmarked for national institutions) to the Voluntary Fund for Technical Cooperation in the Field of Human Rights. During 1996 and 1997, a large number of countries and institutions, in particular in Africa, Asia and Eastern Europe, were the focus of technical cooperation activities in the field of national human rights institutions. The following paragraphs provide an illustrative rather than exhaustive list of these activities. Additional information may be found in the report of the Secretary-General to the Commission on the Technical Cooperation Programme[1] and in the report of the High Commissioner for Human Rights to the Commission.[2]

6. Several significant developments in the area of national institutions occurred in Africa. A needs assessment mission to South Africa recommended that the newly established Human Rights Commission be a central focus of the proposed technical cooperation project with that country. That project is now being implemented. The Special Adviser on National Institutions to the High Commissioner provided advice to the Government of Burundi on a draft presidential decree to establish a human rights commission. In Malawi, the current project of technical assistance includes resources to facilitate the establishment and effective operation of the human rights commission prescribed in the new Constitution and the Special Adviser has also assisted in preparation of appropriate legislation. A request for assistance has also been received from the Government of Uganda, which recently established a human rights commission in accordance with its new Constitution. To that end, a needs assessment mission led by the Special Adviser was undertaken in March 1997 and a project has been approved by the Board of Trustees of the Voluntary Fund for Technical Cooperation. Advice has also been provided to Liberia, Madagascar, Mauritius and Zambia on the establishment or strengthening of a national institution in their respective countries.

7. A great deal of activity relating to national institutions also occurred in the Asia-Pacific region during 1996 and 1997. In the Commission on Human Rights, the Government of Papua New Guinea reaffirmed its commitment to establishing an independent, effective human rights commission without delay. A project to facilitate this commenced in August 1996. The Special Adviser has also provided assistance to the Government of Bangladesh, in the form of high-level consultations concerning the establishment of a national commission, workshops and facilitating contacts with representatives of national institutions in other countries. In Mongolia, the Office of the High Commissioner sponsored a workshop for parliamentarians on establishing an independent human rights commission and assistance has been provided in drafting the relevant legislation. In addition to his activities in relation to the above-mentioned projects, the Special Adviser to the High Commissioner has also provided advice to the Governments of Nepal, Sri Lanka and Thailand on the establishment of institutions in their countries and has given support to activities organized by national institutions in India, Indonesia and the Philippines.

8. Interest in technical assistance for national institutions has also been high amongst countries of Central and Eastern Europe. During the period under review, the Office of the High Commissioner continued implementation of its comprehensive project with the Latvian Human Rights Office. The Special Adviser to the High Commissioner provided advice and assistance to the Government and the Human Rights Office as the necessary legislation was finalized. The Government of the Republic of Moldova, in addition to hosting a regional meeting of national human rights institutions, in 1996 indicated its intention to establish an independent human rights institution. A national workshop to consider the necessary legislation was held in March/April 1997. At the request of Governments, advice has also been provided concerning the establishment of national institutions in Armenia, Belarus, Georgia and the Russian Federation.

9. Much of this activity has been conducted in close collaboration with the United Nations Development Programme (UNDP). In Papua New Guinea, UNDP is playing an active role in administering the relevant project. In Bangladesh, the mission by the Special Adviser was

initially undertaken in response to a request from UNDP, which is currently conducting a comprehensive country project. The technical cooperation project in Latvia is a joint project with financial and administrative support from both the Office of the High Commissioner and UNDP. Such arrangements have provided a model for similar cooperative endeavours with UNDP in countries such as the Republic of Moldova. Cooperative efforts in the area of national institutions have also been initiated with other multilateral organizations, including the Organization for Security and Cooperation in Europe (OSCE), and several leading academic institutions.

10. Further advisory services have been provided to Benin, in the form of a fellowship for training at the Canadian Human Rights Commission; Togo, in the context of a training course on reporting under human rights treaties and human rights issues for the National Commission on Human Rights; and in respect of the strengthening of regional cooperation among national human rights institutions in the Commonwealth of Independent States (CIS) as well as in Eastern and Central Europe.

B. Meetings of the Coordinating Committee for national institutions

11. Pursuant to a recommendation by the International Workshop held in Tunis in December 1993, the Commission on Human Rights, in its resolution 1993/55, endorsed the decision to set up a coordinating committee for national institutions. By virtue of its composition, the Coordinating Committee constitutes an international network promoting the establishment and strengthening of national human rights mechanisms. The Committee currently includes representatives of institutions from Australia, Cameroon, Canada, France, India, Mexico, New Zealand, the Philippines, Sweden and Tunisia.

12. The Committee has set as its main objective the promotion of the establishment and strengthening of national human rights mechanisms. A key component of its work is to assist national institutions in playing an effective role in the promotion and protection of human rights at the national level and to forge close links with international bodies pursuing the same goal.

13. The second meeting of the Committee was held at Geneva in February 1995 and the third meeting, also at Geneva, in April 1996. Participants discussed activities undertaken by the various national institutions, including the application of the Principles on the Status of National Institutions and the position and status of women and disabled persons; the relationship with the Office of the United Nations High Commissioner for Human Rights; the relationship with the International Ombudsman Institute and with regional bodies; the Fourth International Workshop on National Human Rights Institutions; and additional matters including the two draft optional protocols to the Convention on the Rights of the Child.

14. The fourth meeting of the Coordinating Committee was held on 2 and 3 April 1997 at Geneva. Discussions centred on the possible expansion of the scope of the Paris Principles; a possible draft constitution for the Coordinating Committee (to establish a set of rules governing the functions, membership and conduct of business of the Committee); the Fourth International Workshop on National Human Rights Institutions to be held in Mexico in November 1997; regional arrangements for the establishment and strengthening of national institutions; the activities of the Office of the High Commissioner (considering the very limited resources available); and consideration of the status of national institutions in United Nations human rights forums. Given that the Paris Principles had been prepared only in 1991, the rapidly increasing range of activities undertaken in respect of the establishment of new national institutions and the strengthening of existing ones was considered both remarkable and encouraging.

III. Action at the national and regional levels by national institutions

Africa

15. The First African Conference of National Human Rights Institutions was held at Yaoundé from 5 to 7 February 1996, at the invitation of the Cameroon National Committee for Human Rights and Freedoms and under the auspices of the Office of the High Commissioner. Sponsors included the Canadian Human Rights Commission, the French National Consultative Commission for Human Rights and the Government of Cameroon. The Conference, meeting in the context of the tenth anniversary of the African Charter of Human and Peoples Rights, focused on strengthening mechanisms that can act as a buffer between public authorities and civil society, promote the process of democratization and strengthen the rule of law.

16. The debates focused on the status, competence and activities of such institutions, the availability of material and human resources and the political, social and economic environment in which national institutions for the promotion

and protection of human rights in African countries develop and function. Participants agreed that national institutions not only promote the rule of law but also constitute a key component in translating international human rights standards into practice at the national level.

17. Participants adopted the 18-point Yaoundé Declaration, which, *inter alia*, emphasized the importance of creating and strengthening national institutions in African countries, in accordance with the Principles on the Status of National Institutions; highlighted the need to support national institutions through concrete activities and the exchange of information; encouraged African States that had not yet done so to establish effective, independent and pluralistic national institutions; recommended that African States ratify international human rights instruments; requested the Office of the High Commissioner to provide the necessary advisory services to facilitate a programme of technical cooperation; and decided to create a coordinating committee of African national institutions to liaise closely with the international Coordinating Committee and the Office of the High Commissioner.

Asia/Pacific

18. The first Asia-Pacific Regional Workshop of National Human Rights Institutions, held at Darwin, Australia, from 3 to 10 July 1996, was organized jointly by the Australian Human Rights and Equal Opportunity Commission and the New Zealand Human Rights Commission. It was sponsored by the Office of the High Commissioner and the Government of Australia and brought together senior representatives from four of the five national human rights commissions in the region (Australia, India, Indonesia and New Zealand). Senior government officials attended from eight regional countries then contemplating or in the process of establishing national human rights institutions (Fiji, Mongolia, Nepal, Pakistan, Papua New Guinea, Solomon Islands, Sri Lanka and Thailand).

19. The objectives of the Workshop were (a) to promote cooperation among, and the strengthening of, national human rights institutions in the Asia-Pacific region by facilitating discussion and the development of joint activities; and (b) to encourage and assist those States in the process of establishing national human rights institutions through, *inter alia*, the provision of practical assistance and support. The programme was practical in orientation. Sessions were devoted to a range of topics of direct relevance to the creation and functioning of an effective institution, including complaint investigation, mediation and conciliation; combating systemic discrimination; ensuring independence of action; working with the media; and human rights education.

20. At its final session, the Workshop adopted the Larrakia Declaration, which emphasized the need for cooperation among all actors involved in the defence of human rights. It further emphasized the importance of ensuring that all national institutions were created and operate in conformity with the Principles on the Status of National Institutions and that appropriate assistance and support was given to Governments and institutions.

21. The Declaration also reflected the decision, taken by participants at the Workshop, to establish an Asia-Pacific regional forum of national human rights institutions. The Forum will be open to all national institutions of the region established in conformity with the Principles. It will also welcome, as observers, interested Governments and non-governmental organizations. The operational expenses of the Forum are initially being borne by the Government of Australia and the secretariat is based within the Australian Human Rights and Equal Opportunity Commission for its first three years of operation.

Eastern Europe

22. The Second International Workshop on Ombudsman and Human Rights Institutions, organized by UNDP in cooperation with the Government of the Republic of Moldova and with the assistance and participation of the Office of the High Commissioner, was held in Chisinau, Moldova, from 21 to 23 May 1996. The Workshop aimed (a) to foster regional and international cooperation among national human rights institutions (ombudsman offices and human rights commissions); (b) to devise strategies to promote the establishment of national institutions in CIS and countries of Eastern and Central Europe; (c) to encourage States in the region to establish such institutions or to strengthen existing ones; and (d) to facilitate an exchange of information and experiences between leaders of existing national institutions and representatives of countries considering the establishment of such institutions. Assistance provided by the Office of the High Commissioner enabled the participation of experienced practitioners from the Australian and Indian Human Rights Commissions.

23. The Third International Workshop on Ombudsman and Human Rights Institutions, also organized by UNDP with the participation of the Office of the High Commissioner, was held at Riga from 9 to 11 June 1997. The theme of the workshop was "Building democracy: from theory to practice" and one of the main components of the meeting

included presentations concerning the activities of the ombudsman and human rights institutions of the countries from Central and Eastern Europe and CIS. Participants noted that many countries of the region had made significant progress in the field of human rights and the process of sharing experiences combined with discussions on a variety of practical matters was considered an important opportunity to advance good governance, further democratic practices and respect for human rights.

IV. Participation by national institutions in United Nations meetings dealing with human rights

24. In accordance with paragraph 7 of Commission on Human Rights resolution 1996/50, the Secretary-General sent a note verbale to Governments, national human rights institutions and intergovernmental organizations requesting their comments and suggestions concerning possible forms of participation by national institutions. The majority of Governments and national institutions that responded expressed the view that such institutions should be granted a distinct status, independent of their state delegations, so that they could participate in their own right in United Nations meetings. This would provide national institutions with an opportunity to inform the various human rights forums about their activities, the successes they had achieved and the challenges they faced in advancing the cause of human rights. Such participation could encourage national institutions in their work by giving them an appropriate international hearing and by supporting the building of cooperative links with similar institutions in other countries. The granting of a distinct status for national institutions at United Nations meetings would give tangible form to the frequent expressions of support by the United Nations for the development of such institutions.

25. At the fourth meeting of the Coordinating Committee of national institutions, held at Geneva in April 1997, it was recalled that participation of national institutions at the World Conference at Vienna in 1993 was in fact *de jure* and not merely de facto. It was thus up to the Coordinating Committee to formalize participation through the adoption of rules of procedure to allow national institutions to participate at meetings in their own right. To that end, it was suggested that a draft amendment to the rules of procedure be prepared and an options paper on alternative legal means for national institutions to acquire the necessary status be submitted to the Fourth International Workshop on National Human Rights Institutions.

V. Exchange of information and experience concerning the establishment and effective operation of national institutions

26. During the period under review, the exchange of information and experiences on the establishment and operation of national institutions has been extensive, with representatives of well established, independent and pluralistic national institutions increasingly providing advice to newly established institutions. The wide range of experience has also been shared at regional meetings of national institutions and meetings of the Coordinating Committee. Information about the establishment and functioning of national institutions, the successes achieved and the challenges faced has also been exchanged during sessions of the Commission on Human Rights (between national institutions themselves and between Governments and national institutions).

VI. Conclusions

27. The present report has highlighted the growing role of independent national institutions in promoting and protecting human rights, a factor increasingly recognized as important in ensuring effective implementation of international human rights standards at the national level. The report also reflects the expanding role of the Office of the United Nations High Commissioner for Human Rights, in cooperation with Governments and national institutions, in continuing the process of their establishment and strengthening. Lastly, the report has highlighted the need for a clearer definition of the framework for cooperation between national institutions and those international bodies responsible for the promotion and protection of human rights, by recognizing an appropriate status for their participation in human rights forums.

Notes

[1] E/CN.4/1997/86.

[2] E/CN.4/1997/98.